

**Meeting Minutes for Fast Track Workgroup
August 28, 2003, 1:30 PM to 3:30 PM
IGCN, Conference Room D**

Attendance:

Bill Beranek (IEI), Bowden Quinn (WPCB), Patrick Bennett (IMA), John Humes (Hoosier Energy), and Eric Fry (Black Beauty Coal).

Art Umble (Elkhart WWTP) via conference call.

IDEM representatives: Mary Ellen Gray, John Elliott, John Nixon, Lonnie Brumfield, and MaryAnn Stevens

Purpose of Workgroup

The purpose of this workgroup is to review the list of expedited rulemaking issues that the Triennial stakeholder workgroup identified and come to closure on the process for an expedited rulemaking. This list was identified by the Triennial stakeholder group to include changes based on best science, updates of existing rule language, and technical corrections and clarifications that have a reasonable potential of minimal controversy.

Minutes

The minutes of the July 24, 2003 workgroup meeting were accepted by the workgroup members and will be placed on the fast track web site.

First Notice

The first notice was published in the Indiana Register on June 1, 2003, and the comment period ended July 30, 2003. Five comment letters were received during the comment period. Comments will be summarized and responses will be provided by IDEM staff. The "Response to Comments" document will be published in the Indiana Register with the draft rule at second notice.

Workgroup Discussion of Sulfates

Patrick Bennett, Eric Fry, and John Humes, representing the Indiana Water Quality Coalition and the Indiana Manufacturer's Association (IWQC and IMA) attended this workgroup meeting in place of Neil Parke, to pursue their interest in including the sulfate standard point of application into the fast track rulemaking. Mr. Bennett provided the workgroup with a prepared handout in support of their concern that the existing Indiana sulfate criterion for waters outside the Great Lakes system is overreaching. They believe the standard should only apply at the point of drinking water intake and industrial water withdrawal rather than be applicable to all waters. He acknowledged the concern of Dennis Clark that increasing the sulfate standard will leave unprotected areas, but Mr. Bennett believes those areas could be covered by way of a nonrule policy document. Bowden Quinn expressed his concern to the request for sulfate inclusion in the rulemaking indicating that the proponents of it were not acting in good faith toward moving the fast track rulemaking along. Mr. Quinn reminded the workgroup of the in-depth discussion at the July 24th meeting by Dave Kallander and his conclusion that the sulfate issue is not ready for fast track inclusion. He further indicated that by conferring

separately with Tim Method, IDEM Deputy Commissioner, after the July 24th workgroup meeting when the sulfate issue was discussed and the group agreed it was not a fast track issue, the IWQC and IMA were not cooperating with the group decisions. Mr. Bennett stated that the IWQC and IMA were concerned that they had not adequately articulated their concerns regarding sulfates. Mr. Quinn pointed out the disparity between the resources of the environmental community and that of the IWQC and IMA. He believes the environmental community struggles more to have their concerns heard.

Art Umble contributed that there is a weakness in the data to support what actually the sulfate standard should be. Eric Fry countered that the lack of data is due to sulfates not being a problem.

The IWQC and IMA want to modify the Indiana sulfate standard to 2,000 mg/l in accordance with the Illinois Environmental Protection Agency's proposal for a general use "not to be exceeded" standard that should protect aquatic life in stream situations where sulfate is present from man-induced activities. Patrick Bennett stated the sulfate standard modification is needed due to the expense faced by industry to meet the existing 250 mg/l standard.

Mary Ellen Gray stated the sulfate discussion would be an agenda item for the September fast track workgroup meeting.

Discussion of next rulemaking issues not included in the current fast track rulemaking

Bill Beranek pointed out that at the previous workgroup meeting the group decided not to spend time in discussion of the next rulemaking issues. Mary Ellen Gray said not much time would be spent on the topic, but she did want input from the workgroup in advance of the Triennial Steering Committee on the list of issues that IDEM put together.

Discussion of the draft rule and status documents

John Elliott updated the status document outlining the state of completeness in the draft rule of the issues included in the published first notice. The workgroup decided to approach review of the status and draft rule documents by topic rather than going in page order through the draft rule.

Bill Beranek asked John Elliott to include in his status document the comments that were received at first notice for each topic. John agreed to include a general statement under each topic about comments directed to rule issues.

John noted that the only issue about which IDEM received comments stating it should not be included in the fast track rulemaking was the DMT issue. Bill Beranek stated the DMT issue is similar to the sulfate issue in that it is technical not policy. John Elliott stated that EPA guidance is clear on DMT and WLA and he does not understand the IWQC and IMA comment that DMT should not be included in this rulemaking. He further stated that the Great Lakes rules are clear on reasonable potential (RP) but need change on WLA.

John Nixon wanted to steer the workgroup back to the original procedure of rulemaking which allows for comment on a published draft rule. To keep fast track moving forward, John Nixon believes the draft needs to be prepared for publication without repeated discussion of issues that have previously been discussed.

Draft Second Notice Comments

1. Bill Beranek questioned using total recoverable metal for human health criteria in Table 6-1 and the need for a clear reference of the pound symbol (#) to Table 6-2.
2. Bill Beranek took issue with the wording that occurs in several portions of the rules limiting a methodology to a date specific edition rather than using more generalized language such as, "any method approved by the commissioner."
3. Bill Beranek said he is now satisfied that the Zone of Initial Dilution (ZID) issue is correct as stated in the draft rule. (327 IAC 5-2-11.4(c))

Follow up issues

- Put the workgroup minutes of the July 24, 2003 meeting on the Fast Track web site.
- Mary Ellen Gray is to convene some interim meetings concerning the sulfate and DMT issues, but first she intends to confer with IDEM staff and EPA about the subject matter. Art Umble requested to be included in the interim meetings.

Future Meeting Dates

The next meeting is scheduled on September 23, 2003, from 1:30 to 3:30 P.M. in Conference Room D of Indiana Government Center North.

Next Meeting issues

- Continue review of the draft rule and status documents.